

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2676 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NC YAGNIK

Versus

DISTRICT COLLECTOR

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Appearance:

Ms.S.K.Vishen for

M/S TRIVEDI & GUPTA for Petitioner

Mr.B.Y. Mankad, learned A.G.P.

for Respondent Nos. 1, 2

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 10/03/99

ORAL JUDGEMENT

In a Scheme floated by the Government for allotment of suitable plots to the Government servants, the petitioner applied for plot of 135 sq.mts. Alongwith this application, the petitioner gave the details about the date of his appointment and the post held by him alongwith the Certificate that his basic pay was

Rs.3625/- P.M. and that he was holding the post of Executive Engineer since 2.6.84 as also an affidavit that he does not possess any land in Gandhinagar and was working at Ahmedabad. The petitioner's application was processed and it was found that according to the Resolutions dt.29.6.88, 23.1.90, 28.2.90 and 20.7.90 the petitioner was eligible for allotment of such plot on concessional rates under the Scheme in question and for the purpose of actual allotment a computer draw was held and on that basis the petitioner was allotted plot No.22/1 in Sector No.2 at the rate of Rs.150/- per sq.mt. The petitioner accordingly deposited the amount of Rs.20,250/- and in token of the same receipt No.14696 from book no.294 dt.3.4.93 was issued. However, the Sanad was not given to the petitioner in respect of this plot despite his repeated requests and to his great dismay an order was passed on 16.10.93 without any prior or action inspired notice to him that though the plot has been allotted to him, he was not eligible for such allotment in view of the Government Resolution dt.23.1.90 and, therefore, the allotment is cancelled and he may withdraw the amount of Rs.20,250/- deposited by him. This order was issued on 16.10.93 under the signatures of the Collector, Gandhinagar. The petitioner has challenged this order dt.16.10.93. The petitioner has not withdrawn the amount of Rs.20,250/- deposited by him. This Court issued Rule on 11.2.99. No return has been filed.

The copy of the Resolution dt.23.1.90 with reference to which the petitioner's allotment has been cancelled, has been placed on record by the petitioner at page 42-46 as a part of Annexure 'B'. The learned A.G.P. has failed to point out as to how the allotment to the petitioner was in violation of this Government Resolution. This Government Resolution provides that the plot of 135 sq.mts. may be allotted to a person whose basic pay was Rs.3000/- to Rs.3999/-. In face of the Certificate of pay enclosed by the petitioner alongwith the Application for allotment his basic pay was between Rs.3000 to Rs.3999/-. He also does not hold any other plot of land in Gandhinagar. The order of allotment also shows that he was found to be eligible for such allotment under the Scheme floated by the Government. The fact that the petitioner's basic pay was Rs.3625/- has not been disputed. No cause has been shown even before this Court and it has not been made out as to how there was a violation of the Government Resolution dt.23.1.90 and yet the allotment was cancelled by the impugned order dt.16.10.93 Annexure 'A' without any prior action inspired notice to the petitioner. The impugned order

dt.16.10.93 therefore, cannot be sustained in the eye of law and it appears that the same has been passed without any lawful justification and without any reason by making a bald reference to the Government Resolution dt.23.1.90.

This Special Civil Application is, therefore, allowed and the impugned order dt.16.10.93 is quashed and set aside. The respondents are directed to issue Sanad in favour of the petitioner in respect of the plot No.22/1 in Sector No.2, Gandhinagar admeasuring 135 sq.mts. within a period of one month from the date the certified copy of this order is served upon the respondent No.1 i.e. Collector, Gandhiangar. Rule is also made absolute in the terms, as aforesaid. In the facts and circumstances of this case the parties are left to bear their own cost.